

Eastham Zoning Board of Appeals

Public Hearing Date: August 5, 2021.

Time: 5:01 PM

Location: Earle Mountain Room, Eastham Town Hall

ZBA Members present: Ed Schneiderhan, Brian Ridgeway, Joanne Verlinden, Robert Bruns, Gay Craig.

ZBA Members absent: Robert Sheldon

Staff present: Paul Lagg, Town Planner

ZBA Chair, Joanne Verlinden, opened the meeting at 5:00 PM with an explanation of meeting protocols and a statement that the meeting was being recorded.

Joanne Verlinden, Chair of the Board, read the following in honor of Stephen Wasby.

"Before we get to the regular business of this meeting, I would like to take a few moments to remember our colleague and friend, Stephen Wasby, who died on Monday of this week. As most of us know, he served as a member of this Zoning Board of Appeals for more than ten years, and at one time, was Chair of this board. In addition, he worked for three years on the Water Management Committee, several months on the Charter Review Committee eleven years ago, more than a year as the Chair Pro Tem of the Zoning By-Law Review Committee (which revision was adopted at the Town Meeting by a vote of 236 to 7) and more than a year as the Chair and Acting Secretary of the Animal Regulations Review Committee. In all these endeavors he has given generously of his time and made use of his considerable knowledge of the law to contribute to the work of the committee or board on which he was serving, all to the greater benefit of the Town of Eastham. No matter what his official position was on these boards and committees, Steve had only one goal: to make Eastham a better place to live.

Beyond his dedication to the Town of Eastham, Stephen Wasby was recognized for his outstanding work in the academic world as a Consultant, Professor of Political Science, a Teacher, Lecturer, and Author. To his credit are several books on Supreme Court cases dealing with race relations and desegregation, books on the functioning of the Supreme Court, a book on the legacy of Supreme Court Justice William O. Douglas, and many, many articles and studies dealing with the courts and our legal system. Steve was a member of more than seven prominent Political Science and Law Associations and was often invited to university campuses for seminars on legal topics of current interest. One such seminar took place in 2018 at Norwich university where his topic was "Trump and the Law."

A hard task master, Steve was also a good teacher and a helpful mentor. Not many people, I suspect, know about his passion for trains but one could perhaps guess by looking at the license plate on his car -TRAIN 5. He is on another journey now and we, who are left behind, will miss him."

The Board had a moment of silence to remember Steve, our friend and colleague.

Case No. ZBA2021-8 (continued from 6/3/21 and 7/1/21)

Address: 8 Penny Lane, Map 10, Parcels 308/307

Owners: Carol and Richard Rennert seek a special permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law section 7.2 (setbacks) and 4.3 (non-conforming uses) to demolish a pre-existing non-conforming dwelling and construct a new non-conforming dwelling.

ZBA members seated on this case: Robert Bruns, Gay Craig, Brian Ridgeway, and Joanne Verlinden

Others present none.

Discussion: Paul Lagg received a request for continuance from the Rennert's representative Jason Ellis.

Motion by Robert Bruns to continue Case No. ZBA2021-8 to the October 7 board meeting.

Seconded by: Brian Ridgeway

In favor: all members

Opposed: none

The vote: 4/0

Motion passed unanimously

Case No. ZBA2021-10

Address: 300 Summit Avenue, Map 7, Parcel 154.

Owners: Edward and Martha Otowchits seek a special permit pursuant to M.G.L. c.40A s. 6 and Eastham Zoning By-law section 7.2 (setbacks) and 4.4 (non-conforming uses) to construct an addition connecting an existing single-family dwelling to a pre-existing non-conforming detached garage.

ZBA members seated on this case: Gay Craig, Robert Bruns, Brian Ridgeway, Ed Schneiderhan and Joanne Verlinden

Others present: Edward and Martha Otowchits and Mr. Benjamin Zehnder, their lawyer.

Discussion: Ed Schneiderhan observed that while the lot was challenging, there was no real increase in the building's non-conformity. He felt that the applicants had done a good job with their solution. Brian Ridgeway also observed the steepness of the lot and felt that the two-car garage was well designed. Robert Bruns supported the previous views and thought the design was exceptional. Gay Craig observed that the new building plan would fit into the

neighborhood very well and Joanne Verlinden agreed that the front aspect would slide into the overall design of the neighborhood.

Finding of Facts reader: Brian Ridgeway

Findings of Fact: The Zoning Board of Appeals finds that:

1. The property is located at 300 Summit Ave. Map 7, Parcel 154 and is located in District A (Residential).
2. The applicant has applied for a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law section 7.2 (setbacks) and 4.4 (non-conforming uses) to construct an addition connecting a pre-existing single-family dwelling to a pre-existing non-conforming detached garage.
3. The lot size is pre-existing non-conforming at 22,987 sf.
4. After an evaluation of all the evidence presented, the proposed use will not be substantially more detrimental to the established or future character of the neighborhood or the Town, and the structure involved will be in harmony with the general purpose and intent of the Zoning By-law and zoning district. The proposed dwelling is a permitted use within the residential zoning district. The existing garage is non-conforming to side (west) setback (12.75 ft. where 25 ft. is required.) The existing dwelling is conforming to dimensional setbacks and the proposed addition will conform to current setback requirements. The proposed project will not result in any new structures within the current setback requirements.
5. The proposal will not have a negative impact on traffic flow and/or safety. No changes to the existing driveway are proposed. The existing driveway is a semicircle that allows for head on access onto Summit Ave. which is a low volume local access roadway.
6. The proposal will not have a negative impact on the visual character of the neighborhood. The lot contains ample area to accommodate the proposed project which does not expand beyond the immediate vicinity of the existing dwelling and garage, disturbance to the remaining vegetated areas of the property will be minimized. The proposed addition will match the existing architecture.
7. The proposal does have adequate methods of sewage disposal, sources of potable water and site drainage. Town water is available. No negative issues pertaining to the wastewater utilities were identified.
8. The proposal does provide adequate protection and maintenance of ground water quality and recharge volume and the water quality of coastal and fresh surface water bodies.

The site has an existing Title 5 septic system. No increase to existing bedroom counts is proposed. A condition of approval will require review and if necessary, approval from the Board of Health prior to the issuance of a building permit. Town water is available to the site if the owner decides to connect to the municipal system.

9. The proposal does provide adequate provision for utilities and other necessary or desirable public services. No issues related to the current or proposed utilities have been identified.
10. The proposal does provide adequate protection from degradation and alteration of the natural environment. The site is not located within any resource areas.
11. Artificial light, noise, litter, odor or other sources of nuisance or inconvenience will be adequately controlled. Conditions controlling exterior lighting will be added to the special permit. No other relevant issues were identified.
12. No Abutters/Parties in Interest appeared in favor, and none appeared in opposition to the proposal. No letters were received in favor, and none were received in opposition.

Motion by Robert Bruns to approve the findings of fact as stated.

Seconded by: Ed Schneiderhan

In favor: All

Opposed: None

The vote: 5/0

Motion passed unanimously

Conditions reader: Robert Bruns

Conditions:

1. No building Permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The applicant shall obtain a Building Permit from the Eastham Building Department prior to the start of the construction.
3. The Applicant shall verify bedroom count and septic design for adequacy with the Eastham Health Department and if necessary, shall obtain Board of Health approval prior to the issuance of a building permit.
4. All exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. The Applicant is responsible for providing building plans to the Eastham Building and Fire Departments. Plans shall contain information on construction methods and materials sufficient to conduct a full code compliance review.
6. Plan reviews conducted by town staff as part of the site plan approval have been conducted for conformance with applicable sections of the Zoning By-law and for adequacy of the site for public safety access and environmental impacts. Additional plan review for health and safety code compliance will be required and may result in changes to the approved plan dated April 12, 2021, or building plans dated April 27, 2021, except those that are de minimus and must be reviewed by the Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.

7. The Board reserves the right to monitor the ongoing construction for compliance with the approved plan.

Motion by Brian Ridgeway to accept the conditions as read.

Seconded by: Ed Schneiderhan

In favor: All

Opposed: None

The vote: 5/0

Motion passed unanimously.

Motion by: Ed Schneiderhan to grant the special permit for Case No. ZBA2021-10 to construct an addition connecting a pre-existing single family dwelling to a pre-existing non-conforming free-standing garage.

Seconded by: Brian Ridgeway

In favor: All

Opposed: None

Vote: 5/0

Minutes:

Motion by Ed Schneiderhan to approve the minutes of July 1, 2021.

Seconded by: Robert Bruns

In favor: 4/0

Opposed: None

The Vote: 4/0, 1 Abstention by Brian Ridgeway because he had not been present at that meeting.

Motion passed

Attorney Benjamin Zehnder requested to be heard. He explained to the Board that it would be more efficient to simply state that the standard conditions be accepted in a case, followed by a reading of the special conditions for the case being heard. The Board agreed to review this idea.

Adjournment:

Motion by Brian Ridgeway to adjourn the hearing.

Seconded by Ed Schneiderhan

In favor: All

Opposed: None

The Vote: 5/0

Motion passed unanimously.

The meeting was adjourned at 5:39 pm.

Respectfully submitted as prepared by Gay Craig, Clerk Zoning Board of Appeals

Gay Mary Craig Date _____

Joanne Verlinden, Chair Zoning Board of Appeals

Joanne L. Verlinden Date *4/Nov/2021*